

OFFICE OF THE ATTORNEY GENERAL

96-00051



JEFF SESSIONS
ATTORNEY GENERAL
STATE OF ALABAMA

NOV 30 1995

BEFORE CITING QUESTIONS 3 AND 6
FROM THIS OPINION, SEE OPINION
ISSUED TO HON. CHARLES B. COLE,
MAYOR, TOWN OF NEW BROCKTON,
DATED 3-28-2003, A.G. NO. 2003-115

ALABAMA STATE HOUSE
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Honorable James Hagood
Mayor, Town of Rogersville
P. O. Box 540
Rogersville, AL 35652

Municipalities - Fire
Departments - Volunteers -
Funds

An independent firefighters
auxiliary is formed by citi-
zens and firefighters without
action by the city council.

A municipality may not allow
a firefighters auxiliary to
use municipally owned facil-
ities and equipment for fund-
raisers or any other purpose.

The name "Firefighters Auxil-
iary" is an appropriate title
for an independent group
organized to assist a
volunteer fire department.

Funds appropriated to a vol-
unteer fire department by a
municipality may be used to
purchase soft drinks and sand-
wiches for consumption by
firefighters during a working
fire call to combat dehydra-
tion, etc.

The city may not buy food
items to be resold to the
public at a profit for
fundraising purposes.

Dear Mayor Hagood:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTIONS 1 AND 2

Does a firefighters auxiliary, composed of members of the Rogersville Volunteer Fire Department and independent citizens, meet the criteria of "clearly independent?"

Can the Rogersville firefighters and individual citizens form their own auxiliary without city council approval?

FACTS AND ANALYSIS

A "clearly independent" auxiliary is formed without reliance on the city council's approval and without any action on the part of the city council. The auxiliary is independent of the council in all matters of self-government. The firefighters and citizens who organize an independent auxiliary do so on their own time and with their own personal funds and are not controlled in any way by the city council.

CONCLUSION

An independent firefighters auxiliary is formed by citizens and firefighters without action by the city council.

QUESTION 3

Can the firefighters auxiliary use municipal-owned facilities and equipment for fund raisers?

FACTS AND ANALYSIS

The legislature has authorized municipalities to provide assistance to organized volunteer fire departments. In Code of Alabama 1975, § 9-3-18, the legislature provides:

"§ 9-3-18. Counties, municipalities, etc., authorized to donate money, property, etc. to volunteer fire department or volunteer rescue squad.

"(a) It is the intent of the legislature that this section provides assistance to organized volunteer fire departments and organized rescue squads. The legislature deems these organizations public in nature, as they protect the health, safety and welfare of the public.

"(b) The state, any county, any municipality, any fire, water, sewer, garbage or school district, or any other public governmental entity or political subdivision is hereby authorized to donate money, property, equipment or other thing of value to any organized voluntary fire department or organized voluntary rescue squad. If disposed of it will return to the agency where it was obtained. (Acts 1981, No. 81-555, p. 935.)"

Thus, the municipality may allow the volunteer firefighters to use its property or equipment to carry out the duties of the fire department. In Question No. 6, however, we opine that the fire department may not use municipal funds for fundraising purposes. We also believe that municipal property may not be used for fundraising purposes, and that nothing in § 9-3-18, Code, allows municipal property to be used by the fire department for fundraising projects.

Certainly, then, the firefighters auxiliary, which is a completely independent organization, may not use municipal facilities or equipment for fundraisers or any other purpose. Even though the firefighters auxiliary has as the purpose of its fundraiser to raise money for the volunteer fire department, and the funds raised are used to assist the fire department, the city may not allow the auxiliary to use municipal facilities and equipment for these fundraisers.

CONCLUSION

A municipality may not allow a firefighters auxiliary to use municipally owned facilities and equipment for fundraisers.

QUESTION 4

Is the name "Firefighters Auxiliary" an appropriate title to distance itself from the Rogersville Volunteer Fire Department books?

FACTS AND ANALYSIS

Yes. The name indicates the purpose of the organization, and is in no way misleading.

CONCLUSION

The name "Firefighters Auxiliary" is an appropriate title for an independent group organized to assist a volunteer fire department.

QUESTION 5

May the Rogersville Volunteer Fire Department purchase refreshments such as soft drinks, sandwiches, etc., for firefighters during a working fire call to combat dehydration, etc., from municipal fire department funds?

FACTS, ANALYSIS AND CONCLUSION

Funds appropriated to a volunteer fire department by a municipality may be used to purchase soft drinks and sandwiches for consumption by firefighters during a working fire call to combat dehydration, etc.

QUESTION 6

Can the Rogersville Volunteer Fire Department, which is municipally sanctioned, use fire department funds (which are composed of state appropriations, municipal funds and individual donations) to finance fundraisers for the benefit of the Rogersville Volunteer Fire Department? Specifically, can food items, such as chickens, hamburger meat, vegetables, etc., be used in food items, to be resold

as fundraising activities, be purchased
by municipally controlled department
funds?

FACTS AND ANALYSIS

In the Attorney General's opinion to Mayor John Jackson, dated April 19, 1988, A.G. No. 88-00272, the Attorney General opined that a city was not authorized to expend municipal funds in an effort to raise funds. Although § 9-3-18, Code, authorizes a city to donate money, property, equipment, or other thing of value to a volunteer fire department, we do not believe that the legislature intended that municipal funds be expended for fundraising purposes. Thus, the city may not buy food items to be resold to the public at a profit for fundraising purposes.

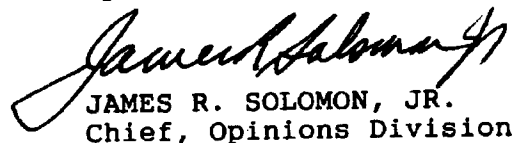
CONCLUSION

The city may not buy food items to be resold to the public at a profit for fundraising purposes.

I hope this sufficiently answers your questions. If our office can be of further assistance, please contact Jane L. Brannan of my staff.

Sincerely,

JEFF SESSIONS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

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